REAL ESTATE COMMISSION MEETING

Heber M. Wells Building Second Floor - Room 210 9:00 a.m. May 17, 2006

MINUTES

STAFF MEMBERS PRESENT:

Derek Miller, Division Director
Mark Fagergren, Education/Licensing Director
Jon R. Brown, Enforcement Director
Dee Johnson, Chief Investigator
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Ken Benson, Investigator
Dave Mecham, Investigator
Jim Bolton, Investigator
Tiffeni Wall, Education Coordinator

COMMISSION MEMBERS PRESENT:

Dorothy Burnham, Chair Maralee Jensen, Vice Chair Bonnie Peretti, Commissioner Doyle "Sam" Sampson, Jr., Commissioner

Guests

Kevin Swensen, Stringham School Curtis Bullock, UAR Glen Welker, Salt Lake Board of Realtors, Education Committee

The May 17, 2006, meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Burnham conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes for April 19, 2006 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT - Derek Miller

Director Miller asked the Commission to approve the minor changes to the draft of the TIC rule so it can be scheduled to be reviewed before a public input session. A motion was made and accepted to make the changes to the draft. A public hearing will be scheduled on the June 21st commission meeting.

Ms. Wismer said there are several draft rules ready to be made effective in June.

These include changes in Rule 10 to change all of the disciplinary proceedings from formal to informal, and changes to Rule 2 that have to do with criminal convictions and license qualifications was amended at the last public input session and can be made effective at the June meeting. A third change is a technical change to delete some duplicate language in one of the education rules.

Director Miller said there has been some discussion since the article in the newsletter regarding agency disclosure. The issue is a difference between what the Division believes the agency relationship to be and what is being done as an industry practice.

Chair Burnham said the standard practice forms are written in different ways. The REPC is written one way, and the land form says it a different way. Continuity is needed. In the practical application of doing real estate, if someone is out writing a REPC on another company's listing, how would someone know who the broker is in an Ogden firm.

Ms. Wismer said it would be a simple change to add the name of the brokerage to the REPC. Director Miller's suggestion is to change the REPC to allow either the principal broker's name or the company, and have an Administrative Rule to clarify that either one can be used. He said the Division will move forward on it, and if it requires a rule change, it will be brought back to the Commission for their review.

Commissioner Peretti asked about all the branch brokers who are using their names on forms. Do they use company and principal broker, or now the branch broker? Ms. Wismer said the branch broker is not the listing broker and his name should not be used. Any clarification should refer to say either the principal broker or the company, but not the branch broker.

Chair Burnham brought up the section of the REPC where an amount of time is given to a responding party. She said, for example, people have been bringing offers in upon presentation, within 2 hours, when the REPC's are expiring, hot market, etc. Would there be a way to put continuity in for the time of response? Perhaps there should be some guidelines for the agents to follow. Ms. Wismer said it was more an education issue for the brokers to teach their agents. Chair Burnham suggested a newsletter article about presenting offers.

INVESTIGATIONS REPORT – Jon R. Brown

Mr. Brown reported in April the Division received 52 written complaints, screened 37 complaints (no cases opened), opened 28 cases, closed 30 cases, leaving the number of open cases at 144.

The breakdown on the 52 complaints received were as follows: 6 property management, 8 earnest money or trust account issues, 10 unprofessional conduct, 2 TIC complaints, 4 unlicensed activity, 8 loan fraud, 2 short sales, and 10 agency complaints.

The continuing education audits showed there were 2 cases opened, 20 cases were closed, 7 Stipulations signed by the Commission, leaving the number of audit investigative cases at 48.

Chair Burnham suggested perhaps more emphasis be placed on teaching agency, and that it might be part of the next Core Course for next year.

LICENSING HEARINGS

9:42 Gregory E. Mauer – Application for Renewal

Theodore E. Kanell, Attorney

Mark Maxon, Life Works International

Brian "Tony" Chambers, Exit Realty Infinity Rebecca Roberts, Wife, Exit Realty Infinity Judith Mauer, Mother, Re-Max Associates

Bill Lundskog, Exit Realty Infinity Dan Rip, Exit Realty Infinity

OTHER BUSINESS

Ralph Little - Core Course as Distance Education

Mr. Little would like to put the Core Course on a streaming video over the internet so it might be offered through distance education. He is currently in the process of getting it approved through ARELLO. He would like to have the Commission's approval to get the process started, even though ARELLO has not as yet authorized this use.

He has taken the Core Course and split it in three sections. These deal with contract law, statute of frauds, and REPC, and have added a requirement for the students to take a quiz after each section. This meets the interactivity to be considered as a live course. A certificate will be issued and the information will download to Promissor.

Mr. Fagergren said there is a rule in place that might clarify the options for the Commission. It says continuing education courses in which instruction does not take place in a traditional classroom setting (a non-live class), but rather through other media where teacher and student are separated by distance and sometimes by time (a computer class), may be certified by the Division provided the delivery method of the course has been certified by either the Commission or by ARELLO. Mr. Fagergren said the Division has been waiting for a school to get approved so the Core Course could be offered as distance education. It has been a burden for Mr. Little to get approval from ARELLO. The Commission has the authority to approve a course for distance education that has not been ARELLO certified. Both Mr. Brown and Mr. Johnson gave Enforcement's approval for this course.

<u>EDUCATION/LICENSING REPORT</u> – Mark Fagergren

Mr. Fagergren reported there have been Caravan meetings in St. George, Logan, Provo, Tooele, and tomorrow they will be going to Vernal. There were 260 people that attended in Provo.

Since the first of the year, all CE courses being taught are to be banked for individual students. However, there is a problem in the industry with compliance. The providers are failing to bank the CE. Mr. Fagergren would like to ask for the support of the Commission to have Ms. Wismer draft a rule that would put a time constraint on a provider. The provider would be given a specific number of days after the course, or they will be fined. Chair Burnham said on the material currently being sent out to providers, there is a time limit saying all hours must be banked within a week. She suggested that if the providers don't cooperate with the 10 day limit, their teaching certificate be taken away.

Ms. Wismer said there is a rule currently in place, R9.6, Conditions to Certification, that the Division can modify to say the form required is no longer a piece of paper, but having the hours banked. Mr. Fagergren said we still need a time limit added to the rule. There are also problems when the individuals don't put down the correct numbers, or don't write their names clearly. It takes a long time for the provider to check every entry on a roster when they can't read the handwriting, and it is not fair to them.

Mr. Fagergren has asked Ms. Wall, Education Coordinator, to contact all the boards to explain how to bank the hours. This will be a big problem when individuals renew and are audited, because when we pull up the person's file, there are no hours banked.

Last year the statute was changed where it gives the Commission the option to waive CE for an individual who will be leaving for an extended period of time. A letter was received recently from someone who will be leaving for three years and is requesting the CE requirements be waived. Mr. Brown suggested he renew on-line as inactive, and when he returns, activate his license. Ms. Wismer said the statute gives the option of waiving CE on a finding of "reasonable cause", someone can be exempt from education. She said the Commission needs to decide if there is reasonable cause if there is another way they can renew. Chair Burnham suggested Mr. Fagergren write a letter saying the suggestion of the Commission is for the individual to renew as inactive before leaving, and then renew on-line from then on.

Mr. Fagergren said a committee was established last year to propose some recommendations for new licensees. It was discussed in January to re-draft the proposal which suggested changing how the 90-hour pre-licensing course would be taught. The pre-license content outline would remain the same, except that 9 additional hours would be devoted to teaching contracts. A 12-hour post-licensing course for new licensees was suggested to be completed within the first six months, but the Division is concerned on how this would be tracked. Commissioner Sampson said it was agreed to have the individuals take the Core Course and 9 hours of specific courses. No new hours would be added, they would just be arranged differently. The Commission decided the 12 hours should be in REPC, contracts, agency, ethics, plus the Core Course, within the first two-year renewal period. These courses must be live courses and taught by certified pre-license instructors or by certified continuing

education instructors. The Commission has authorized the Division to move forward with this change.

Review of Stipulations

Daniel J. Orton Celestine R. Petersen James K. Crellin Darrin T. Rumsey Bonnie Lyons

A motion to go into Executive Session was passed, and was held from 11:48 a.m. to 12:10 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearing:

Gregory E. Mauer - Denied

Stipulations:

Daniel J. Orton - Approved Celestine R. Petersen - Approved James K. Crellin - Approved Darrin T. Rumsey - Approved Bonnie Lyons - Approved

A motion was made and accepted to adjourn the meeting at 12:20 p.m.